

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

Property Tax Bureau
Informational Guideline Release (IGR) No. 89-209
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EXPENDITURE OF SUBDIVISION CONSTRUCTION DEPOSITS

Chapter 245 Acts of 1988
(Amending G.L. Ch. 41, S. 81U)
Superseding IGR No. 88-212

SUMMARY:

When approving a subdivision plan under G.L. Ch. 41, S 81U, planning boards must require the developer to secure the performance of certain obligations relating to the construction of ways and the installation of public services.

The developer can satisfy the requirement through a bond or through the deposit of cash or negotiable securities. If the developer defaults on his undertakings, the proceeds of the bond or deposit can be appropriated to cover the cost to the city or town of completing the unfinished work whose completion was secured by the bond or deposit.

Chapter 236 of the Acts of 1987 added a new paragraph to section 81U. This local option statute permitted planning boards, with the selectmen's approval, to spend such bond or deposit proceeds without appropriation, if the total amount of the proceeds did not exceed \$25,000.

This new law, Chapter 245 of the ACTS of 1988, increases this limit to \$100,000.

The law is not applicable to cities, or to towns with a town council form of government. Those municipalities must go through the normal appropriation process in order to use the proceeds of any bond or deposit.

GUIDELINES:

1. Selectmen should consult with their town's planning boards to determine whether it would be desirable for their town to accept the provisions of Chapter 245. Under G.L. Ch. 4, S.4, the statute can be accepted by a vote of an annual or special town meeting.
2. Chapter 236, with its \$25,000 limit, is no longer effective in those towns which may have adopted it.
3. In any town which wishes to permit the use of the construction deposit without prior appropriation, Chapter 245, with its \$100,000 limit, must be adopted.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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